

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, FIRST CALLED SESSION

PROCEEDINGS

EIGHTH DAY — TUESDAY, JULY 12, 2005

The house met at 1 p.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 46).

Present — Mr. Speaker; Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Absent — Hartnett; King, P.

The invocation was offered by Rabbi Samuel Barth, Congregation Agudas Achim, Austin.

The speaker recognized Representative Naishtat who led the house in the pledges of allegiance to the United States and Texas flags.

CAPITOL PHYSICIAN

The speaker recognized Representative Naishtat who presented Dr. Mark Chassay of Austin as the "Doctor for the Day."

The house welcomed Dr. Chassay and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of personal business:

Martinez Fischer on motion of Dunnam.

(Hartnett now present)

**PROCLAMATIONS BY THE GOVERNOR
OF THE STATE OF TEXAS**

The chair laid before the house and had read the following proclamations by the governor:

**TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
SEVENTY-NINTH TEXAS LEGISLATURE, FIRST CALLED SESSION:**

WHEREAS, the people of Texas through their state constitution have placed the power to call the legislature into special session in the hands of the chief executive officer of the state; and

WHEREAS, the members of the Seventy-Ninth Texas Legislature, First Called Session, have now convened to consider items presented to them by the governor;

NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following subject matter to the Seventy-Ninth Texas Legislature, First Called Session for consideration:

Legislation relating to the authorization, issuance, and funding
of tuition revenue bonds.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 11th day of July, 2005.

Rick Perry
Governor of Texas

(SEAL)

Roger Williams
Secretary of State

**TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE
SEVENTY-NINTH TEXAS LEGISLATURE, FIRST CALLED SESSION:**

WHEREAS, the people of Texas through their state constitution have placed the power to call the legislature into special session in the hands of the chief executive officer of the state; and

WHEREAS, the members of the Seventy-Ninth Texas Legislature, First Called Session, have now convened to consider items presented to them by the governor;

NOW, THEREFORE, I, RICK PERRY, Governor of the State of Texas, by the authority vested in me by Article IV, Section 8 and Article III, Section 40 of the Texas Constitution, do hereby present the following subject matter to the Seventy-Ninth Texas Legislature, First Called Session for consideration:

Legislation relating to an increase in the compensation of judges, including salary and retirement benefits.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 11th day of July, 2005.

Rick Perry
Governor of Texas

(SEAL)
Roger Williams
Secretary of State

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 3).

HR 259 - ADOPTED (by Keel)

Representative Keel moved to suspend all necessary rules to take up and consider at this time **HR 259**.

The motion prevailed.

The following resolution was laid before the house:

HR 259, In memory of U.S. Army Specialist Rafael A. "T. J." Carrillo, Jr., of Austin.

(Phillips in the chair)

HR 259 was read and was unanimously adopted by a rising vote.

On motion of Representative Chisum, the names of all the members of the house were added to **HR 259** as signers thereof.

(Speaker in the chair)

HR 258 - ADOPTED (by Keel)

Representative Keel moved to suspend all necessary rules to take up and consider at this time **HR 258**.

The motion prevailed.

The following resolution was laid before the house:

HR 258, Honoring Roy L. Bernhardt, Jr., of Taylor on his retirement from Thrall High School.

HR 258 was adopted.

HR 282 - ADOPTED
(by Dutton)

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 282**.

The motion prevailed.

The following resolution was laid before the house:

HR 282, Commemorating the 40th reunion of the Phillis Wheatley High School Class of 1965 of Houston.

HR 282 was adopted.

(P. King now present)

HR 283 - ADOPTED
(by Hill)

Representative Hill moved to suspend all necessary rules to take up and consider at this time **HR 283**.

The motion prevailed.

The following resolution was laid before the house:

HR 283, Congratulating Jan Woody on her election to the board of trustees for Dallas County Schools.

HR 283 was adopted.

HCR 24 - ADOPTED
(by Homer)

Representative Homer moved to suspend all necessary rules to take up and consider at this time **HCR 24**.

The motion prevailed.

The following resolution was laid before the house:

HCR 24, In memory of Betty J. Hobbs of Paris.

HCR 24 was unanimously adopted by a rising vote.

HR 262 - ADOPTED
(by Giddings)

Representative Giddings moved to suspend all necessary rules to take up and consider at this time **HR 262**.

The motion prevailed.

The following resolution was laid before the house:

HR 262, In memory of Dorothy Rose of Dallas.

HR 262 was unanimously adopted by a rising vote.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

**MAJOR STATE CALENDAR
HOUSE BILLS
SECOND READING**

The following bills were laid before the house and read second time:

**CSHB 6 ON SECOND READING
(by Morrison)**

CSHB 6, A bill to be entitled An Act relating to authorizing the issuance of revenue bonds or other obligations to fund capital projects at public institutions of higher education.

Amendment No. 1

Representatives Pitts and Morrison offered the following amendment to **CSHB 6**:

Amend **CSHB 6** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION___. There is hereby appropriated to the respective institutions of higher education \$108,000,000 in General Revenue for the 2006-07 biennium for the purpose of paying debt service on the bonds authorized by this Act. The debt service appropriations shall be transferred to affected institutions of higher education based on a plan developed by the Texas Higher Education Coordinating Board and approved by the Legislative Budget Board.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Guillen offered the following amendment to **CSHB 6**:

Amend **CSHB 6** as follows:

On Page 5, line 8, insert in Starr County between "Center" and "to"

Amendment No. 2 was adopted.

Amendment No. 3

Representative Hamric offered the following amendment to **CSHB 6**:

Amend **CSHB 6** (house committee printing) on page 6 by striking lines 11 and 12 and substituting the following:

(B) \$60 million for educational, clinical, administrative, and research facilities for The University of Texas Dental Branch at Houston; and

Amendment No. 3 was adopted.

CSHB 6, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 11 ON SECOND READING
(by Hartnett and Luna)

CSHB 11, A bill to be entitled An Act relating to the compensation of state judges and county judges, to the computation of retirement benefits for state judges and for members of the elected class of the Employees Retirement System of Texas, and to providing funds for court-related purposes.

Amendment No. 1

Representatives Pitts and Hartnett offered the following amendment to **CSHB 11**:

Amend **CSHB 11** (Committee printing) by adding the following appropriately numbered section and renumbering subsequent sections of the bill accordingly:

SECTION ____ . Article IV, **SB 1**, Acts of the 79th Legislature, Regular Session, 2005, (the General Appropriations Act), is amended by adding the following appropriations:

SPECIAL PROVISIONS - JUDICIARY

Sec. 16. (a) Contingent on the Comptroller of Public Accounts issuing a finding of fact certifying additional revenue collections from fees and court costs during the 2006-07 biennium that exceed the Comptroller of Public Accounts Biennial Revenue Estimate for these items by at least \$17,808,761 in fiscal year 2006 and \$23,461,314 in fiscal year 2007, an amount estimated to be \$34,551,073 out of the Judicial Fund No. 573 and an amount estimated to be \$6,719,000 out of the General Revenue Fund are appropriated to the Judiciary Section, Office of the Comptroller of Public Accounts, to fund the annual salary increase for judicial officers provided by **HB 11**, Acts of the 79th Legislature, 1st Called Session, 2005, to begin on November 1, 2005, for the state fiscal year ending August 31, 2006, and to begin on September 1, 2006, for the state fiscal year ending August 31, 2007.

(b) Any increase in employee benefits costs associated with the salary increase provided by **HB 11**, Acts of the 79th Legislature, 1st Called Session, 2005, and this section shall be paid only out of the appropriations made in Subsection (a) of this section, including \$6,679,000 out of the General Revenue Fund for the purposes of funding the increased costs to the Judicial Retirement System - Plan I.

(c) Provisions requiring salaries and benefits to be proportional to the source of funds shall apply to all sums allocated under this section, except as otherwise provided. Each court or agency shall pay the increase in compensation from funds held in the state treasury and from local funds in the same proportion as the employee's regular compensation.

(d) The Comptroller of Public Accounts shall promulgate rules and regulations as necessary to administer this section. Funds appropriated in this section shall be allocated to each court or agency, and to the appropriate employee benefit appropriation items, in accordance with such rules and regulations and may be used only for the purpose of providing a salary increase and paying associated employee benefit costs.

(e) In the appropriations to the Judiciary Section, Office of the Comptroller of Public Accounts, made by **SB 1**, Acts of the 79th Legislature, Regular Session, 2005, the Comptroller of Public Accounts shall increase appropriations out of the Judicial Fund No. 573 by \$3,054,000 in fiscal year 2006 and by \$3,665,000 in fiscal year 2007 for Strategy D.1.1, District Judges, and shall decrease the appropriations out of the General Revenue Fund for that strategy by those amounts.

(f) The description for Strategy A.1.4, Local Administrative Judge Supplement in the bill pattern for the Judiciary Section, Office of the Comptroller of Public Accounts, in **SB 1**, Acts of the 79th Legislature, Regular Session, 2005, is replaced with the following description: Per Government Code, Section 659.012(d).

(g) The amount of \$20,000 out of the General Revenue Fund for each fiscal year is included in amounts appropriated in Subsection (a) of this section for the purposes of funding \$5,000 salary supplements to additional judges eligible for such supplements under Section 659.012(d), Government Code.

(h) The name and description for Strategy C.1.1, Constitutional County Judge General Revenue Supplement in the bill pattern for the Judiciary Section, Office of the Comptroller of Public Accounts, in **SB 1**, Acts of the 79th Legislature, Regular Session, 2005, is replaced with the following name and description: Constitutional County Judge General Revenue and Judicial Fund No. 573 Supplement: Salary supplement per Government Code, Section 26.006. Estimated.

(h) An amount estimated to be \$469,125 in fiscal year 2006 and an amount estimated to be \$748,800 in fiscal year 2007 are included in amounts appropriated out of the Judicial Fund No. 573 to the Judiciary Section, Office of the Comptroller of Public Accounts, by Subsection (a) of this section for additional district courts created on or after September 1, 2005, by **SB 1189**, Seventy-ninth Legislature, Regular Session, 2005.

Amendment No. 1 was adopted.

Amendment No. 2

Representatives Nixon and Dutton offered the following amendment to **CSHB 11**:

Amend **CSHB 11** (Committee Printing), on page 1, line 16-17, by striking "salary provided for a justice of a court of appeals other than a chief justice" and substituting "combined salary provided for a justice, other than a chief justice, of the court of appeals that includes the county in which the district judge resides".

Representative Hartnett moved to table Amendment No. 2.

The motion to table prevailed.

Amendment No. 3

Representative Thompson offered the following amendment to **CSHB 11**:

Amend **CSHB 11** (Committee printing) as follows:

(1) On page 6, lines 13-14, strike "using data collected by the state bar under Section 81.116".

(2) Strike SECTION 9 (page 6, line 19 through page 7, line 4) of the bill.

(3) Strike Subsection (b) of SECTION 21 of the bill (page 12, lines 10-12).

(4) On page 12, line 6, strike "(a)".

(5) Renumber the sections of the bill accordingly.

Amendment No. 3 was adopted.

CSHB 11, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Anderson, Baxter, Branch, Burnam, Chavez, R. Cook, Corte, Crabb, Dukes, Dutton, Gallego, Goolsby, Hamilton, Hilderbran, Hochberg, Homer, Hopson, Kolkhorst, McClendon, Merritt, Mowery, Peña, Reyna, Ritter, Rose, Solomons, Swinford, Thompson, Truitt, Veasey, and Villarreal recorded voting no; Bonnen, B. Brown, Castro, Delisi, Farabee, Hodge, Keel, Laney, and Talton recorded voting present, not voting.)

HB 11 ON THIRD READING

(by Hartnett and Luna)

CONSTITUTIONAL RULE SUSPENDED

Representative Hartnett moved to suspend the constitutional rule requiring bills to be read on three several days and to place **HB 11** on its third reading and final passage.

The motion prevailed by (Record 47): 132 Yeas, 3 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Bailey; Berman; Blake; Bohac; Bonnen; Branch; Brown, F.; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Delisi; Denny; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Leibowitz; Luna; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Morrison; Mowery; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle;

Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Cook, R.; Dutton; Moreno, P.

Present, not voting — Mr. Speaker(C); Keel.

Absent, Excused — Martinez Fischer.

Absent — Anderson; Baxter; Brown, B.; Burnam; Dawson; Deshotel; Goolsby; Laney; Naishtat; Peña; Ritter.

STATEMENTS OF VOTE

When Record No. 47 was taken, my vote failed to register. I would have voted yes.

Anderson

When Record No. 47 was taken, my vote failed to register. I would have voted no.

Baxter

When Record No. 47 was taken, my vote failed to register. I would have voted present, not voting.

B. Brown

When Record No. 47 was taken, I was in the house but away from my desk. I would have voted no.

Burnam

The speaker laid **HB 11** before the house on its third reading and final passage.

HB 11 was read third time and was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Anderson, Baxter, Branch, Burnam, Chavez, R. Cook, Corte, Crabb, Dukes, Dutton, Gallego, Goolsby, Hamilton, Hilderbran, Hochberg, Homer, Hopson, Kolkhorst, McClendon, Merritt, Mowery, Peña, Reyna, Ritter, Rose, Solomons, Swinford, Thompson, Truitt, Veasey, and Villarreal recorded voting no; Bonnen, B. Brown, Castro, Delisi, Farabee, Hodge, Keel, Laney, and Talton recorded voting present, not voting.)

The speaker stated that **HB 11** was passed subject to the provisions of Article III, Section 49a, of the Texas Constitution.

REASONS FOR VOTE

I favor a judicial compensation increase, but I do not favor linking that increase with an increase in legislative pensions.

Branch, Eissler, Farabee, Flynn,
Hamilton, Kolkhorst, McCall, Zedler

I support the judicial pay raise, but must abstain from voting because it is tied to legislative retirement income.

Castro

I believe it is extremely important that judges are more adequately compensated. Therefore, I support **HB 11**.

However, in the future I hope legislation is advanced that separates judicial salaries and legislative pension removing the current conflict of interest.

B. Cook

I could not in good conscience vote to give myself a pension benefit increase without giving the teachers of Texas a pay raise first.

Hopson

Although I strongly support a judicial pay raise, I very much regret that we have not addressed the need for a substantial teacher pay raise at this point in the special session.

I will continue to work for a significant teacher pay raise as the school finance bills move forward.

Hunter

Judges in this state are often paid less than a first-year lawyer at large law firms and deserve a raise. Judges are responsible for making important and often life and death decisions, but many experienced, highly-qualified judges are leaving the bench because of the lack of compensation. I believe that a pay raise for judges is justified, and that is why I voted for **HB 11**.

If the Texas Legislature believes it is important to raise judicial compensation to keep quality judges, then the Texas Legislature should also be raising compensation for educators to keep quality teachers. With the Texas House of Representatives failing to provide money for a teacher pay raise and failing to increase the multiplier for retired teachers during this education special session, I feel it is inappropriate for legislators to be increasing their own pension benefits.

Unfortunately, a decision was made in the 1970s to tie the future retirement pay of state legislators to the current salaries of district judges. I did not run for public office to get a retirement check. I knew the job paid \$7,200 per year, and I am not interested in any pension increase that might result from this bill if I serve long enough to even qualify for a legislative pension.

Should I qualify for a pension from the state at a future point in time, I will not accept the increased pension benefits that result from **HB 11** and will ask that the money be redirected to the Teachers' Retirement System.

Leibowitz

I believe that Texas judges deserve a salary raise. Low pay results in high turnover rates and makes it difficult to attract the most experienced candidates to the bench. I registered a vote against **HB 11** because I believe the legislature should sever the link between judicial salaries and legislator pensions. Legislators should not enact legislation that automatically and indirectly boost

their own pension when it refuses to fully fund the Employees Retirement System and the Teachers Retirement System that will allow retired state employees and retired educators to benefit from pension increases.

McClendon

Although I favor increasing the salaries of Texas judges, I do not believe we should pass **HB 11** until such time that the legislature has properly funded our public schools, increased teachers' salaries, and lowered the property tax burden on Texas homeowners.

Solomons

I want to support pay raises for judges but am concerned that this simultaneously benefits members of the legislature and would prefer that we first address public school finance and a more fair tax structure.

Truitt

HB 6 ON THIRD READING

(by Morrison)

CONSTITUTIONAL RULE SUSPENDED

Representative Morrison moved to suspend the constitutional rule requiring bills to be read on three several days and to place **HB 6** on its third reading and final passage.

The motion prevailed by (Record 48): 145 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithe; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Burnam.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Martinez Fischer.

Absent — Deshotel.

The speaker laid **HB 6** before the house on its third reading and final passage.

HB 6 was read third time and was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

The speaker stated that **HB 6** was passed subject to the provisions of Article III, Section 49a, of the Texas Constitution.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Villarreal requested permission for the Committee on Ways and Means to meet while the house is in session at 2:40 p.m. today in 3W.9 for a formal meeting.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Ways and Means, 2:40 p.m. today, 3W.9, for a formal meeting, to consider **HB 92**.

CONSTITUTIONAL AMENDMENTS CALENDAR HOUSE JOINT RESOLUTIONS SECOND READING

The following resolutions were laid before the house and read second time:

CSHJR 19 ON SECOND READING

(by Corte, Bonnen, Hilderbran, Campbell, Oliveira, et al.)

CSHJR 19, A joint resolution proposing a constitutional amendment to prohibit the state or a political subdivision from taking private property for the primary purpose of economic development or to benefit a particular class of identifiable individuals.

CSHJR 19 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE CHISUM: Mr. Corte, I've read your deal and I've signed on it. The question comes to mind, do you intend to define economic development or primary purpose of economic development? Because what we have here is a situation where we could eliminate the ability to put in power lines. We could eliminate the ability to put in new pipelines or roads or a lot of issues. Are you going to address that?

REPRESENTATIVE CORTE: I'm glad you brought that up because many of the members have signed on and come to me and asked me about particular parts that may be in their community. It is not the intent of this legislation in any way to preempt any of the good things that a community can do that's very legitimate in

public use of eminent domain. The problem we have in definition of economic development and primary purpose or public use is the way the court made the decision—it's very broad. The dissent opinion by Justice O'Connor—she even said utilities, and railroads, and even stadiums—Mr. Chisum, were proper public use that would be appropriate for the taking of public domain to be used. However, in the decision, they, in ruling in favor of the defendants, in this case New London, Connecticut, they might even want to make a case of public use. You can take it to a third party. And I believe that what we're doing is we're putting into the constitution a protection to property owners that that will not be the case. We have a senate bill coming over that's going to be voted out today—Senator Janek is carrying that—and we're going to make sure that in that legislation that we're not going to throw out the baby with the bathwash of the good things that can be done in our communities, whether it's economic development corporation, whether it's utilities, whether it's transportation, whatever the case may be.

CHISUM: Mr. Corte, you're saying then that you're not going to eliminate the necessities of life, which are roads, electric utilities—

CORTE: Water—

CHISUM: —water, pipelines to move petroleum—

CORTE: —hospitals—

CHISUM: —hospitals—I mean those are things that virtually belong to the private sector. Those rights-of-way do, but we've always had the possibility to go in and foreclose on them to make sure we can put in those kind of utilities that would affect the economy of an area. But that's not what you're intending to restrict.

CORTE: That's exactly correct, Mr. Chisum.

CHISUM: And so you're going to address that in the enabling legislation. Is that correct?

CORTE: That's correct.

CHISUM: Now, how about the port areas? I've heard some debate about the port areas. Would you talk to us just a little bit about the issue where we are going to have to enlarge our ports in many cases and sometimes that would require a condemnation proceeding to do that?

CORTE: As I said earlier, I think that the ports that obviously operate or are operated by third parties are very critical to public purpose and to moving commerce. The debate could be made, and this has been a big dilemma, if someone says, let's try to define economic development in your HJR, or let's try to define that in the statute, but the problem is that there's no definition, even right now in statute of economic development. I think that we have to be very careful in that, because if we do draft something like this HJR, then we could cut something out like our roads, and like our water, and like our ports. So what we want to do in enabling legislation, and like I said earlier about the senate bill, we

are going to be looking at that and making sure that we don't do that. Those type of things that are very critical to the infrastructure, and economically for our state, are not in any way hindered or inhibited. It's not an easy task, Mr. Chisum.

CHISUM: Do you intend to address that in the enabling legislation, Mr. Corte? Maybe look somewhere along the line of the HJR and making sure that everybody understands that that's not what we're trying to do here. And I understand that—

CORTE: And I will tell you that we tried that and we added some amendments in the HJR, but the more words we added, it got more complicated. I think there should be a goal in this JR to keep it to where the average Texan can understand it, too. They're going to vote on it as you know, Mr. Chisum, here in November. I'm not trying to say I want to keep it simple, but I do think that we need to make sure the citizens of this state understand it because this is the provision. The constitution, and I know you said you support this, is to protect citizens from the government, and I think that is what this measure accomplishes. But at the same time I assure you, and hopefully you'll be confident by my assurance, that in no way do we want to impede those things that are critical for our transportation, utilities, water, whatever it is for our communities.

REMARKS ORDERED PRINTED

Representative Chisum moved to print remarks between Representative Corte and Representative Chisum.

The motion prevailed.

CSHJR 19 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE SEAMAN: Texas ports are political subdivisions that were created for a public purpose, and are absolutely essential to the flow and conduct of commerce in this state, but they obviously provide additional benefits to economic development, as that term is used in **HJR 19**. Considering this, will the use of eminent domain by a Texas seaport to expand or improve its facilities or infrastructure be limited by **HJR 19** because such improvements may have related economic development benefits?

CORTE: No, now let me just expound on that question, Mr. Seaman. I will tell you that the port authority of Houston came into the committee, and they expressed concerns of just what you are talking about, and the truth of the matter is, like I told Mr. Chisum a while ago, there is no definition of economic development. But, obviously if somebody in the port community, whoever they may be at that particular port, or you yourself come from a port city, you think of that as economic development, but I would argue that that is commerce and that commerce is going to take place. And the economic development is really a narrower application. And I would say that, like I said to Mr. Chisum and Mr. Villarreal, and I will tell you, these are very public use functions in our community whether it is to support commerce, to support our livelihoods, or whatever the case may be.

SEAMAN: Thank you, Mr. Corte, I have two more questions and they are both the same. Number two, is it your understanding that the Operation Texas Seaports is a legitimate public use for purposes of exercising eminent domain in this state?

CORTE: That would be yes. The answer to that question would be yes.

SEAMAN: And number three, for purposes of legislative intent, will **HJR 19** prohibit or otherwise limit the ability of the Port of Corpus Christi and other Texas seaports such as Houston from using the power of eminent domain?

CORTE: No, it would not.

REMARKS ORDERED PRINTED

Representative Seaman moved to print remarks between Representative Corte and Representative Seaman.

The motion prevailed.

Amendment No. 1

Representative Corte offered the following amendment to **CSHJR 19**:

Amend **CSHJR 19** as follows:

(1) On page 1, line 8, between "Sec. 17A." and "The", insert "(a)".

(2) On page 1, between lines 12 and 13, insert the following:

(b) This section does not affect the authority of a political subdivision to take private property, as authorized by law, through the use of eminent domain for a municipal sports and community venue project and related infrastructure that are approved by the voters of the political subdivision at an election held on or before December 1, 2005.

AMENDMENT NO. 1 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE JACKSON: Mr. Corte, this addresses venues for sports facilities. Is there any limitation on that venue as to what it includes? Could it include a thousand acres of private development around the venue?

CORTE: Mr. Jackson, the legislation that we passed, actually it was two sections in the Local Government Code. There was one passed in 1997, and I think that Senator Brimer came back in 1999 and passed another one. I'm going to try to cite the actual section. I think it's 354 and 355 of the Local Government Code. That legislation created financing mechanisms for there to be public to private partnerships to develop venues if it was the will of the people. So it never defined how big it can be and how small it can be. So I don't know if that answers your question, but we're just addressing what has already passed the legislature.

JACKSON: Let me ask you this, Mr. Corte. Does this include a 20 story hotel next to the stadium?

CORTE: I'm going to tell you the truth, I was here, I was a joint author of that piece of legislation, and I can't say that there was a restriction. But I think that it had to be a legitimate use of the venue for what was stated. Whether it was going

to be for a concert hall or sports or whatever the venue was going to be. It did not specify in the legislation the type of venue. But I don't know if it actually said whether it was a restriction on whether there could be a hotel or not. Can I please ask you a question? Can you be a little more specific, are you telling me about something I don't know about?

JACKSON: No, I'm just asking. Could it include a shopping mall?

CORTE: Now this amendment addresses the legislation that has to do with sports facilities. Are you asking me a question about the constitutional amendment or about this particular amendment?

JACKSON: Well this includes what's in the legislation. I'm asking about what is included in that legislation that would then be included in this amendment. If I wanted to do a sports venue for a Class 3A baseball team in some city—

CORTE: This amendment does not allow anything that is not allowed in the current Local Government Code to allow those communities to create a venue. I've already told you a moment ago, I don't think it allows it. I don't know if it prohibits it, but I will tell you that this does not give any more additional authority to those sports facilities that are either planned and would be put on the landscape by December 1, 2005.

JACKSON: Mr. Corte, why can't we address this in the enabling legislation instead of the constitutional amendment?

CORTE: I will tell you that that was a question that I asked, and I was told that it needed to be in the constitutional amendment. There are certain things that are already in code that we can address—I guess its real beauty is in the eyes of the beholder. But I'm not going to tell you that it doesn't do anything because that's not really the case. But I will tell you that we can put it on, and probably it would have the same effect if we didn't put it on.

JACKSON: The reason that I'm going to have a hard time voting for your amendment is because you can't tell me what it does.

CORTE: I can tell you what it does, Mr. Jackson, very well. I told you when I stood up here—

JACKSON: You can tell me what the previous legislation says it does, but you can't tell me—

CORTE: It addresses projects that have been authorized by this legislature to continue to be—that the voters have already voted on—already before this date and until held on or before December 1, 2005. That's exactly what this amendment does, so to tell me that I didn't tell you is inaccurate.

JACKSON: Let me get a little more specific. Does it include only that portion of that bigger project in which there are public funds?

CORTE: It includes the project that was proposed to the public and whatever financing because there's two sections. One deals with tax revenue and one deals with bonds. I think what you're trying to ask me, and it's a very legitimate question, does it include anything more than is already authorized, and I would say no.

JACKSON: What's authorized for financing under the law, not what might be added to that by private development?

CORTE: Exactly.

JACKSON: If it's privately paid for and does not have an area of public financing, it would not be included in this bill?

CORTE: That is correct.

REMARKS ORDERED PRINTED

Representative Jackson moved to print remarks between Representative Corte and Representative Jackson.

The motion prevailed.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Dutton offered the following amendment to **CSHJR 19**:

Amend **CSHJR 19** on page 1 as follows:

(1) On line 8, between "17A." and "The", insert "(a)".

(2) Between lines 12 and 13, insert the following:

(b) If property that is a homestead is located in a municipality and is taken under the power of eminent domain and if a purpose of the taking is economic development, the owner of the homestead property is entitled to compensation in an amount equal to the greater of:

(1) the actual damages resulting from the taking of the homestead property; or

(2) the value necessary to replace the homestead property with comparable other property in the municipality.

(3) On line 16, strike "prohibit" and substitute "restrict".

(4) On lines 17 and 18, strike "the primary purpose of economic development" and substitute "economic development purposes".

Representative Corte moved to table Amendment No. 2.

A record vote was requested.

The motion to table was lost by (Record 49): 72 Yeas, 72 Nays, 2 Present, not voting.

Yeas — Allen, R.; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Farabee; Flynn; Goolsby; Griggs; Grusendorf; Haggerty; Hamric; Hardcastle; Harper-Brown; Hartnett; Hill; Hope; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.;

King, T.; Krusee; Laubenberg; Madden; McReynolds; Miller; Morrison; Mowery; Nixon; Oliveira; Orr; Otto; Paxton; Phillips; Pickett; Pitts; Reyna; Seaman; Smith, T.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Anderson; Branch; Burnam; Castro; Chavez; Chisum; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; Escobar; Farrar; Flores; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hamilton; Hegar; Herrero; Hilderbran; Hochberg; Hodge; Homer; Hopson; Howard; Hughes; Hunter; Jones, J.; Kolkhorst; Kuempel; Laney; Leibowitz; Luna; Martinez; McClendon; Menendez; Merritt; Moreno, P.; Naishtat; Noriega, M.; Olivo; Peña; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, W.; Solis; Solomons; Thompson; Truitt; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C); Goodman.

Absent, Excused — Martinez Fischer.

Absent — McCall; Turner.

STATEMENT OF VOTE

I was shown voting yes on Record No. 49. I intended to vote no.

Crabb

A record vote was requested.

The vote of the house was taken on the adoption of Amendment No. 2 and the vote was announced yeas 72, nays 67.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 50): 66 Yeas, 63 Nays, 3 Present, not voting.

Yeas — Allen, A.; Alonzo; Anchia; Bailey; Burnam; Castro; Chavez; Chisum; Cook, R.; Crabb; Davis, Y.; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; Escobar; Farabee; Flores; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Grusendorf; Guillen; Haggerty; Hamilton; Herrero; Hochberg; Hodge; Homer; Hopson; Jones, J.; Kolkhorst; Kuempel; Laney; Leibowitz; Luna; Martinez; McClendon; Merritt; Moreno, P.; Naishtat; Noriega, M.; Olivo; Peña; Phillips; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Swinford; Thompson; Uresti; Veasey; Vo.

Nays — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Brown, B.; Brown, F.; Callegari; Campbell; Cook, B.; Corte; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Flynn; Griggs; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hunter; Jackson; Jones, D.; Keel; King, P.; Krusee; Madden; McCall; McReynolds; Miller; Morrison; Mowery; Nixon; Oliveira; Orr; Otto; Paxton; Pickett; Pitts; Reyna; Seaman; Smithee; Solomons; Strama; Talton; Taylor; Truitt; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C); Branch; Goodman.

Absent, Excused — Martinez Fischer.

Absent — Casteel; Coleman; Deshotel; Farrar; Hupp; Isett; Keffer, B.; Keffer, J.; King, T.; Laubenberg; Menendez; Solis; Straus; Turner; Van Arsdale; Villarreal.

The speaker stated that Amendment No. 2 was adopted by the above vote.

STATEMENTS OF VOTE

I was shown voting no on Record No. 50. I intended to vote yes.

Anderson

I was shown voting no on Record No. 50. I intended to vote yes.

Hegar

I was shown voting no on Record No. 50. I intended to vote yes.

Hilderbran

When Record No. 50 was taken, I was in the house but away from my desk. I would have voted yes.

T. King

REASON FOR VOTE

I voted against this amendment to **HJR 19**. While I agree with the idea of this amendment, I believe it needs to be put into the enabling statute, not in the constitutional amendment.

B. Brown
Flynn
Zedler

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of important business in the district:

Casteel on motion of Griggs.

Farrar on motion of Leibowitz.

B. Keffer on motion of Paxton.

J. Keffer on motion of Chisum.

Laubenberg on motion of Paxton.

Menendez on motion of Homer.

Solis on motion of Leibowitz.

Van Arsdale on motion of Gattis.

Villarreal on motion of Farabee.

The following member was granted leave of absence for the remainder of today because of important business:

Deshotel on motion of Gallego.

The following member was granted leave of absence for the remainder of today because of illness:

Coleman on motion of Rodriguez.

CSHJR 19 - (consideration continued)

Amendment No. 3

Representative Rodriguez offered the following amendment to **CSHJR 19**:

Amend **CSHJR 19** as follows:

(1) On page 1, line 8, between "17A." and "The" insert "(a)".

(2) On page 1, between lines 12 and 13, insert:

(b) The state or a political subdivision of the state may not take private property through the use of the power of eminent domain if the primary purpose of the taking is to construct a toll road.

(3) On page 1, between lines 12 and 13, insert the following SECTION to the resolution and renumber existing SECTIONS accordingly:

SECTION 2. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to Subsection (b), Section 17A, Article 1, of this constitution proposed by HJR 19, Acts of the 79th Legislature, First Called Session, 2005, and expires January 1, 2006.

(b) The amendment applies only to a condemnation proceeding for which the condemnation petition is filed on or after the effective date of the amendment. A condemnation proceeding for which the condemnation petition was filed before the effective date of the amendment is covered by the former law, and the former law is continued in effect for that purpose.

(4) On page 1, line 19, between "individuals" and the period, insert ", or for the primary purpose of constructing a toll road".

Amendment No. 3 was withdrawn.

Amendment No. 4

Representatives McCall, Kolkhorst, Y. Davis, and Anchia offered the following amendment to **CSHJR 19**:

Amend **CSHJR 19** on page 1 as follows:

(1) On line 8, insert "(a)" between "17A." and "The".

(2) Between lines 12 and 13 insert the following:

(b) The legislature may provide by general law the actions that are considered to be takings for economic development purposes or to benefit a particular class of identifiable individuals under Subsection (a) of this section.

Amendment No. 4 was adopted.

Amendment No. 5

Representatives Keel and Talton offered the following amendment to **CSHJR 19**:

Amend **CSHJR 19** (house committee printing) on page 1 as follows:

(1) On line 8, insert "(a)" between "17A." and "The".

(2) Between lines 12 and 13 insert the following appropriately designated subsection:

() The determination of the state or political subdivision that the primary purpose of the state's or political subdivision's taking of private property is not for economic development or to benefit a particular class of identifiable individuals does not create a presumption with respect to the primary purpose of the taking. The primary purpose of a taking is a question of fact.

Amendment No. 5 was adopted.

A record vote was requested.

CSHJR 19, as amended, was adopted by (Record 51): 132 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Castro; Chavez; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Jackson; Jones, D.; Jones, J.; Keel; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Leibowitz; Luna; Madden; Martinez; McCall; McClendon; McReynolds; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Veasey; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C); Branch; Goodman.

Absent, Excused — Casteel; Coleman; Deshotel; Farrar; Keffer, B.; Keffer, J.; Laubenberg; Martinez Fischer; Menendez; Solis; Van Arsdale; Villarreal.

Absent — Isett; Smith, W.

STATEMENTS OF VOTE

When Record No. 51 was taken, I was absent because of important business in the district. Had I been present I would have voted yes.

J. Keffer

When Record No. 51 was taken, my vote failed to register. I would have voted yes.

W. Smith

HB 3 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS

Representative Chisum called up with senate amendments for consideration at this time,

HB 3, A bill to be entitled An Act relating to property tax relief and protection of taxpayers, certain taxes, fees, and property, and other matters relating to the financing of public schools; providing civil and criminal penalties; making an appropriation.

Representative Chisum moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3**.

The motion prevailed.

HB 3 - CONFERENCE COMMITTEE INSTRUCTED

Representative Dunnam moved to instruct the conference committee on **HB 3** as follows:

A tax equity note must be prepared and submitted to the chief clerk and a copy of the note be made available to each member before action can be taken by the house conferees on the conference committee report on **HB 3**.

The motion prevailed.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of illness:

Isett on motion of F. Brown.

HB 3 - (consideration continued)

HB 3 - CONFERENCE COMMITTEE INSTRUCTED

Representative Hartnett moved to instruct the conference committee on **HB 3** as follows:

Reject the Armbrister Amendment No. 27 with the exception of the provisions relating to Indian Charitable, non-electronic bingo.

A record vote was requested.

The motion prevailed by (Record 52): 101 Yeas, 29 Nays, 1 Present, not voting.

Yeas — Allen, A.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Castro; Chavez; Cook, B.; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Driver; Dunnam; Edwards; Eissler; Escobar; Farabee; Flynn; Frost; Gattis;

Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Griggs; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hodge; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Jackson; Jones, D.; Jones, J.; King, P.; King, T.; Kolkhorst; Krusee; Laney; Leibowitz; Madden; Martinez; McCall; McReynolds; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pitts; Quintanilla; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Strama; Talton; Taylor; Thompson; Truitt; Vo; West; Woolley; Zedler.

Nays — Allen, R.; Bailey; Branch; Chisum; Cook, R.; Corte; Denny; Dukes; Dutton; Eiland; Elkins; Flores; Geren; Goodman; Grusendorf; Haggerty; Keel; Kuempel; Luna; McClendon; Oliveira; Pickett; Puente; Raymond; Solomons; Straus; Swinford; Uresti; Veasey.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Casteel; Coleman; Deshotel; Farrar; Isett; Keffer, B.; Keffer, J.; Laubenberg; Martinez Fischer; Menendez; Solis; Van Arsdale; Villarreal.

Absent — Gallego; Guillen; Homer; Turner; Wong.

STATEMENTS OF VOTE

I was shown voting no on Record No. 52. I intended to vote yes.

Corte

When Record No. 52 was taken, my vote failed to register. I would have voted no.

Guillen

When Record No. 52 was taken, my vote failed to register. I would have voted yes.

Homer

I was shown voting no on Record No. 52. I intended to vote yes.

Solomons

HB 3 - CONFERENCE COMMITTEE INSTRUCTED

Representative Elkins moved to instruct the conference committee on **HB 3** as follows:

Retain the Elkins amendment to **HB 3**, which retained a camera traffic fine for property tax reduction.

The motion prevailed. (Hill and Hochberg recorded voting no.)

HB 3 - MOTION TO INSTRUCT CONFERENCE COMMITTEE

Representative Merritt moved to instruct the conference committee on **HB 3** as follows:

Instruct the house conferees on **HB 3** that any select committee or commission created by the conference committee report to study or make recommendations regarding state taxation of business entities must consist entirely of members of the legislature or other individuals appointed by the speaker of the house or lieutenant governor.

A record vote was requested.

The motion was lost by (Record 53): 34 Yeas, 97 Nays, 2 Present, not voting.

Yeas — Alonzo; Anchia; Burnam; Castro; Chavez; Dukes; Dunnam; Dutton; Edwards; Elkins; Flores; Gallego; Gonzales; Gonzalez Toureilles; Herrero; Hodge; Hopson; Hunter; Jones, D.; Jones, J.; Laney; Leibowitz; Martinez; McClendon; Merritt; Naishtat; Noriega, M.; Oliveira; Olivo; Quintanilla; Rodriguez; Thompson; Uresti; Vo.

Nays — Allen, A.; Allen, R.; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Driver; Eiland; Eissler; Escobar; Farabee; Flynn; Frost; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hochberg; Homer; Hope; Howard; Hughes; Hupp; Jackson; Keel; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Luna; Madden; McCall; McReynolds; Miller; Moreno, P.; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Veasey; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C); Giddings.

Absent, Excused — Casteel; Coleman; Deshotel; Farrar; Isett; Keffer, B.; Keffer, J.; Laubenberg; Martinez Fischer; Menendez; Solis; Van Arsdale; Villarreal.

Absent — Bonnen; Raymond; Turner.

HB 3 - MOTION TO INSTRUCT CONFERENCE COMMITTEE

Representative Hopson moved to instruct the conference committee on **HB 3** as follows:

Include Senate Amendment No. 2, which passed by a vote of 21 to 8. This amendment doubles the current homestead exemption from \$15,000 to \$30,000 giving more property tax relief to 143 out of 150 house districts.

A record vote was requested.

The motion was lost by (Record 54): 52 Yeas, 69 Nays, 1 Present, not voting.

Yeas — Allen, A.; Alonzo; Burnam; Castro; Chavez; Cook, R.; Davis, Y.; Dukes; Dunnam; Edwards; Eiland; Escobar; Farabee; Flores; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Herrero; Hochberg; Hodge; Homer; Hopson; Hughes; Hunter; Jones, J.; King, T.; Kuempel; Laney;

Leibowitz; Martinez; McClendon; McReynolds; Merritt; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Rose; Thompson; Turner; Uresti; Veasey; Vo.

Nays — Allen, R.; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Brown, B.; Brown, F.; Callegari; Campbell; Chisum; Cook, B.; Crownover; Davis, J.; Dawson; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Geren; Goodman; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Hupp; Jackson; Jones, D.; Keel; King, P.; Kolkhorst; Krusee; Luna; Madden; McCall; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Smithee; Straus; Talton; Taylor; Truitt; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Casteel; Coleman; Deshotel; Farrar; Isett; Keffer, B.; Keffer, J.; Laubenberg; Martinez Fischer; Menendez; Solis; Van Arsdale; Villarreal.

Absent — Anchia; Branch; Corte; Crabb; Delisi; Dutton; Goolsby; Howard; Peña; Phillips; Ritter; Solomons; Strama; Swinford.

STATEMENTS OF VOTE

When Record No. 54 was taken, my vote failed to register. I would have voted yes.

Crabb

I was shown voting no on Record No. 54. I intended to vote yes.

Hilderbran

When Record No. 54 was taken, my vote failed to register. I would have voted yes.

Phillips

HB 3 - CONFERENCE COMMITTEE APPOINTED

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3**: J. Keffer, chair; Chisum; Otto; Swinford; and Geren.

HR 214 - ADOPTED (by Hunter)

Representative Chisum moved to suspend all necessary rules to take up and consider at this time **HR 214**.

The motion prevailed.

The following resolution was laid before the house:

HR 214, Congratulating Lynn Barnett for her 25 years of work to advance the arts in Texas.

HR 214 was adopted.

HR 239 - ADOPTED
(by Hunter)

Representative Chisum moved to suspend all necessary rules to take up and consider at this time **HR 239**.

The motion prevailed.

The following resolution was laid before the house:

HR 239, Congratulating Jerry L. Love for being elected the chairman of the Texas Society of Certified Public Accountants.

HR 239 was adopted.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Judiciary, 5:15 p.m. today, 3W.9, for a formal meeting, to consider pending business.

Regulated Industries, upon adjournment today, Desk 82, for a formal meeting, to consider **SB 20**.

PROVIDING FOR ADJOURNMENT

Representative Uresti moved that, pending receipt of messages from the senate, the house adjourn until 12 p.m. tomorrow in memory of Rene De La Torre of San Antonio.

The motion prevailed.

ADJOURNMENT

In accordance with a previous motion, the house, at 5:04 p.m., adjourned until 12 p.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 99 (By Bonnen), Relating to the powers and duties of the Sweeny Hospital District.

To County Affairs.

HB 101 (By Goolsby), Relating to the compensation and duties of Texas Lottery Commission members.

To State Affairs.

HCR 25 (By J. Jones and Berman), Proclaiming July 25, 2005, as Henry Miller Morgan Day in Texas and commemorating the dedication of a Texas State Historical Marker at the site in Tyler of the first African American barber college.

To Culture, Recreation, and Tourism.

SB 11 to Judiciary.

SB 20 to Regulated Industries.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 3

HCR 1, HCR 12, HCR 14, HCR 21, HCR 22

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Tuesday, July 12, 2005

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 11 Duncan

Relating to the compensation of state judges and county judges, to the computation of retirement benefits for state judges and for members of the elected class of the Employees Retirement System of Texas, and to providing funds for court-related purposes.

SB 20 Fraser

SPONSOR: Baxter

Relating to this state's goal for renewable energy.

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

July 11

Judiciary - **HB 34**

Natural Resources - **HB 40**